GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

B.C. Welfare Department - Appeal Petition filed Sk Shamila Begum, D/o Basha Mohiuddin , Occ: Teacher, R/o. Devaralagadda Street, Udaigiri Mandal, SPSR Nellore District before the Government, against the orders of the Collector and District Magistrate, Prakasam District, Ongole issued in Proceedings in D.Dis.C4/99/2016, dated:19.08.2018 under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) - Regulation of Issue of Community Certificates Act, 1993 (Act No.16/1993) – Appeal Petition dismissed – Orders -Issued.

BACKWARD CLASSES WELFARE (F) DEPARTMENT

G.O.Ms.No.13 Dated:21/02/2024

Read the following:

1. Proceedings D.Dis.C4/99/2016, Dt: 19.08.2018 of the Collector and District Magistrate, Prakasam District, Ongole.
2. Appeal Petition dated:05.11.2018 filed by Shaik Shamila Begum, D/o Basha Mohiuddin before the Hon'ble Minister for BC Welfare, Govt. of AP., AP Secretariat, Velagapudi.
3. Orders of the Hon'ble High Court in W.P.No.44509/2018, dated:10.12.2018.
4. Govt. Memo.4287/F/2018, dated:12.07.2019 addressed to the Collector and District Magistrate, Prakasam District.
5. From the Collector and District Magistrate, Ongole, Letter Rc.No.C4/99/2016, dated:18.07.2019.
6. Govt.Memo. dated:07.02.2020 addressed to the Smt. Shaik Shamila Begum, D/o Basha Mohiuddin.
7. Written arguments dated:19.02.2020 of Smt. Shaik Shamila Begum, D/o Basha Mohiuddin.
8. Govt.Memo. dated:25.01.2024 addressed to the Smt. Shaik Shamila Begum, D/o Basha Mohiuddin.

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ORDER:

In the reference 1st read above, the Collector and District Magistrate, Prakasam District, Ongole has issued orders canceling the Dudekula (BC-B) caste certificates issued earlier in favour of her and declared that the Smt.Shaik Shamila Begum, D/o Basha Mohiuddin belongs to Indian-Islam-Muslim (OC).

2. In the reference 2nd read above, Shaik Shamila Begum, D/o Basha Mohiuddin has filed appeal petition before the Government, against the orders of the Collector and District Magistrate, Prakasam District, Ongole issued in the reference 1st read above.

3. In the reference 3rd read above, the Hon'ble High Court of AP has disposed the W.P.No.44509/2018 filed Smt. Shaik Shamila Begum, D/o Basha Mohiuddin, SPSR Nellore, with a direction to the 1st respondent/Principal Secretary to Government, Social Welfare Department, A. P. Secretariat, Velagapudi to verify the appeal dt.9.10.2018 preferred by the petitioner and pass appropriate orders within a period of four months from the receipt of the orders after giving opportunity of being heard to all the stakeholders and granted status quo until the said exercise attains finality.

4. In the reference 4th read above, the Government have called for the parawise remarks and relevant original records of the caste appeal petition of the appellant from the Collector and District Magistrate, Prakasam District, Ongole and the Collector and District Magistrate, Prakasam District, Ongole has furnished para-wise remarks and connected records vide reference 5th read above.

5. In the reference 6th read above, Smt. Shaik Shamila Begum, D/o Basha Mohiuddin had been called for hearing before the Government on 12.02.2020 with all connected documents in support of her claim. Upon hearing, the Government advised the Petitioner to engage an advocate and submit written arguments along with relevant documents by 19.02.2020 failing which the case will be disposed on merits.

6. In the reference 7th read above, Smt. Shaik Shamila Begum, D/o Basha Mohiuddin had filed written arguments and prayed to declare the action of the Collector and District Magistrate, Prakasam District, Ongole in issuing the proceedings in D.Dis.C4/99/2016, dt.19-08-2018, without properly appreciating the reports submitted by other officials, as illegal, arbitrary and unconstitutional and consequently set aside the orders in the reference 1st read above and to pass such order or orders as deem as fit and proper in the interest of justice.

7. In the reference 8th read above, Smt. Shaik Shamila Begum, D/o Basha Mohiuddin was again issued hearing notice to appear before the Government on 06.02.2024 failing which, it will be construed that there is no explanation what-so-ever to furnish in the matter and that the case will be decided based on the material available with the Government.

8. Upon hearing and on perusal of the records/the copies of evidences/ academic record/grounds filed by the Appellant and the parawise remarks submitted by the Collector and District Magistrate, Prakasam District, Ongole, the Government/Appellate Authority observed as follows:

(i) The appellant, selected through DSC 2008, served as Grade II LP (Telugu) at GHS (G), Podili Mandal. Following a spouse's case, she was transferred to Nellore district, posted at Buchireddypalem, DLNR Government School in 2013, and presently working at Government High School, Udaigiri, SPSR Nellore District with good reputation from all corners.

(ii) Smt.B. Shantha Kumari filed OA No.5313 of 2014 and obtained an interim order on 05-09-2014. Consequently, the District Education Officer, Prakasam District referred the case to a District Level Committee on 30-01-2016, which initiated an inquiry. The Tahsildar, Udaigiri, issued a caste certificate confirming the appellant's BC-B Dudekula status.

(iii) The BC Welfare Officer, Ongole, and the Deputy Director (Social Welfare & DTWO (FAC)), Ongole after due enquiry concluded that the appellant belong to BC-B Dudekula. However, the RDO, Kandukur, contradicted these findings, relying on statements from Noor Basha Sangam, Kanigiri, verification certificate of the appellant's mother and her brother's bonafide certificate, claiming affiliation with the Muslim community. Pursuant to reports of Tahsildar, Udaigiri, BC Welfare Officer, Ongole, Deputy Director, Social Welfare, Ongole and RDO, Kandukur, the District Level Scrutiny Committee headed by the Joint Collector asked to bring service register of the appellant's father, accordingly the appellant produced a xerox copy of service register, wherein caste was not mentioned. The appellant contended that simply basing on report of the RDO, the DLSC came to conclusion and recommended to the Collector and District Magistrate, Prakasam District that appellant does not belong to BC-B Dudekula and to cancel all the caste certificate issued earlier as BC-B.

(iv) Pursuant to which on 29-09-2018 the District Education Officer, Nellore has given the Show Cause notice vide Rc.No.5936/(A2)B4/2018 on the following grounds:

a) That all the educational and transfer certificates of appellant poses that the appellant belong to BC-B Dudekula community. The same was ignored by the RDO, Kandukur.

b) That the Tahsildar, Udaigiri, after verifying all the educational records, enquiring the elders in the village, issued caste certificate after following the due process, till date no body objected the same.

c) That the reports of BC Welfare Officer, Ongole and Deputy Director (SW), Ongole would clearly show that the appellant belong to BC-B Dudekula by community.

d) That the appellant's brother Shaik Shareef Ahmed who studied upto 10th Class, in his TC, his caste was mentioned as BC-B Dudekula. The appellant's cousin Shaik Rabbani Basha, in his TC, his caste was mentioned as BC-B Dudekula.

e) That the appellant's paternal uncle Shaik Meera Hussain's caste certificate issued by MRO, Kanigiri would clearly show that he belongs to BC-B Dudekula.

f) That the RDO, Kandukur, without putting the notice to the appellant, conducted enquiry and simply stating that the President and Members of Noor Basha Sangam and statement of Khaja Bee, the appellant's mother who is illiterate, and came to conclusion that the appellant belong to Muslim Community, which has no basis at all.

g) That the appellant studied upto Degree in Kanigiri in the year 1997, thereafter, after marriage in the year 1999, the appellant settled in Udaigiri. All relatives of appellant have scattered to different places and nobody is there in Kanigiri. As such the report of RDO, Kandukur, has no basis and it cannot be taken as a truth.

h) That when three offices are supporting the case of the appellant, the report of RDO cannot be considered and that is not sufficient to cancel the appellant caste certificate.

i) That the appellant's father though was an employee, in those days had not properly mentioned the caste in the education records of the appellant's brothers and her mother is an illiterate and both of them does not know and were not particular about the caste in those days. The RDO cannot take advantage of the same and gave report against the appellant.

j) Whereas the Collector and District Magistrate of Prakasam emphasized in their Para-remarks that school records are not considered valid documentary evidence for determining one's caste as they are recorded based on the self-declaration made by the parents or guardian of the candidate. As a result, the conclusion was drawn that school records should not be relied upon as valid documentation for establishing one's caste. The Revenue Divisional Officer, Kandukur reported that, the Tahsildar, Kanigiri who enquired into the matter reported that Smt. Shaik Shamila Begum is the permanent resident of Kanigiri Mandal, belongs to Indian-Islam-Muslim but not Dudekula BC-B duly enquired the following individuals and verified documentary evidences:

   (i) the President and all the Members of Noor Basha Sangham, Kanigiri stated that Smt. Shaik Shamila Begum, her father and all her family members does not belong to Dudekula (BC-B) caste.

   (ii) Verified that statement of Smt.Khajabee (mother of the candidate) given to the Tahsildar, Kanigiri while getting Proper Person Certificate, it is clearly noted that she belongs to Muslim.

   (iii) Verified Bonafide certificate of Shaik Abdul Raheem brother of the candidate issued by the Principal, Government Junior College, Kanigiri showing that he belongs to Indian-Islam-Muslim.

k) The District Level Scrutiny Committee has observed that the reports of the enquiry Officers and all the documentary evidences produced by the candidate are school record only. School record is not criteria to decide one's caste. The DLSC concluded that as per Section 6 of the Act 16 of 1993, the burden of proof lies on the candidate only. In this case, the

appellant failed to produce valid documentary evidence in support of her claim to prove that her father/blood relatives/ancestors belong to Dudekula-BC(B).

9. The Government (Appellate Authority) is also opined that it is clearly evident that individual does not belong to Dudekula-BC(B), basing on the recommendations of the District Level Scrutiny Committee, Dudekula-BC (B) caste certificate of Smt. Shaik Shamila Begum, D/o Basha Mohiuddin was cancelled by the Collector and District Magistrate, Prakasam District declaring that she does not belong to Dudekula BC-B but, belongs to Indian-Islam-Muslim (OC) vide reference 1st read above. Therefore, the opinion rendered by the DLSC/Collector and District Magistrate, Prakasam District holds good.

10. Government after careful examination of the entire matter and keeping in view of the orders of Hon'ble High Court of Andhra Pradesh, in W.P.No.44509/2018, and in exercise of the powers conferred under section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No.16 of 1993), decide that the appeal petition filed by Smt. Shaik Shamila Begum, D/o Basha Mohiuddin does not deserve any interference. Hence, Proceedings of the Collector and District Magistrate, Prakasam District issued in the reference 1st read above is hereby upheld duly dismissing the appeal petition filed by Smt.Shaik Shamila Begum, D/o Basha Mohiuddin and the certificates issued earlier are deemed to be cancelled.

11. The Collector and District Magistrate, Prakasam District is directed to take necessary consequential action in the matter accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

G.ANANTHA RAMU
SPECIAL CHIEF SECRETARY TO GOVERNMENT

To
The Collector and District Magistrate, Prakasam District (with original records) (BY RPAD)
Smt. Shaik Shamila Begum, D/o Basha Mohiuddin
R/o Devaralagadda Street, Udaigiri Mandal,
SPSR Nellore District.

Copy to:

1. Smt. B. Santha Kumari,D/o Kesalu,
   R/o H.No.4-9-158/2, Ramalayama Street,
   Old Budvel road, Giddaloor,
   Prakasam District.
2. The Director, B.C.Welfare, A.P., Vijayawada.
3. The OSD to Hon' Minister (BCW).
4. PS to Spl. CS to Government, B.C. Welfare Department, A.P. Secretariat, Velagapudi.
5. PS to Prl. Secretary to Government, Social Welfare Department, A. P. Secretariat, Velagapudi.
6. SF/SC.

//FORWARDED::BY ORDER//

SECTION OFFICER

21/02/24